IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

Bail Appl..No. 5057 of 2007()

CRIME NO. 261/07 OF CHERPULASSERRY POLICE STAITON
CRMP.5912/2007 of J.M.F.C.,OTTAPPALAM

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PETITIONER/ACCUSED NO.6

YUNUS, S/O.MOIDUPPA, KUTHUKALLINGAL
VEEDU, ANAMANGAD, MANJALAYA, PUNNEKODU,
PERINTHALMANNA, MALAPPURAM.

BY ADV. SRI.AUGUSTINE JOSEPH
SRI.K.S.ROCKEY

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, FOR THE SUPERINTENDENT OF POLICE,
SHORNUR (THE INVESTIGATION OFFICER IN
CRIME NO.261/2007 OF CHERUPULASSERY
POLICE STATION).

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/08/2007, ALONG WITH BA 5167 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.Nos. 5057 & 5167 of 2007

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Dated this the 24th day of August, 2007

O R D E R

Applications for regular bail. The petitioners face allegations, inter alia, under Section 395 I.P.C. They were taken into custody on 22.7.2007 at Bangalore. The 4th accused continues in custody in this crime from that date. The arrest of the 6th accused was recorded in this case on 2.8.2007.

2. The crux of the allegations against the petitioners is that they have committed offences punishable, inter alia, under Sections 120B and 395 I.P.C. The alleged incident in this case took place on 15.7.2007. It was preceded by a conspiracy. Accused 1 and 2 are alleged to be the master mind behind the operation. They embarked on a method of plundering persons who were associated with the illegal activity of violating the provisions of the Customs Act and Foreign Exchange Act. Carriers of such illicit wealth and property were identified, attacked and robbed. Several crimes all over the State have allegedly been committed under the leadership of accused 1 and 2. The other accused are alleged to be conspirators, who took part in the implementation of the operation.

3. The incident in this case relates to one such event on 15.7.2007. The victims - two in number - were allegedly travelling in a stage carriage bus. They were carrying large quantity - 11 kgs. - of gold with them. The accused persons, who had entered into a conspiracy followed the victims-some from Madras. The victims had got into the bus. The bus was stopped. They were dragged out of the bus and robbed of the gold. They were thereafter left in the lurch. The various accused persons had allegedly roles to play in the entire operation.

4. The petitioner in B.A. 5167 of 2007 is the 4th accused. It is alleged that he had hired a Qualis car, which was used by the conspirators/ accused throughout the operation. The petitioner was allegedly following the bus in question in another Maruti car along with the Qualis car in question. He was allegedly driving that car. The prosecution does not have an allegation that he had actually got into the bus and dragged the victims out of the bus. The very case is that he was controlling the operation, travelling in the Maruti car which proceeded to the scene along with the Qualis car. The petitioner had allegedly proceeded to Bangalore, to the place where the first accused had taken shelter and it is from there that the petitioner was arrested.

5. So far as the petitioner/6th accused is concerned, the allegation is only that he is a conspirator. There is no allegation that he was actually

present at or near the scene of the crime at the relevant time. He had allegedly played a crucial role for identification of the possible preys. He was himself having connections with the underworld carriers of goods in violation of the Customs Act. He has passed on crucial information about the identity of such persons who carry gold and had passed on such information to the conspirators. Thus, it is alleged that he was also one of the conspirators, who planned the present operation. The petitioner/A6 had also proceeded to Bangalore, to the place of the residence of the first accused and it is from there he was also arrested. The petitioners are suspected to be involved in other crimes, but the prosecution has not come out with any specific incident.

6. The learned counsel for the petitioners submits that the petitioners, who remain in custody from 22.7.07, may now be enlarged on bail. The allegations against them are totally false. No reliance can be placed on those allegations even at the present stage. In these circumstances it is prayed that they may be enlarged on bail.

7. The learned Prosecutor opposes the applications. The nature and gravity of the allegations may be taken into consideration. The available inputs convincingly point to the complicity of the petitioners. Vital data have to be collected. The co-accused have to be identified and apprehended. Release of the petitioners at this early stage would hamper

the smooth course of investigation. In these circumstances the petitioners may not be enlarged on bail, submits the Prosecutor.

8. I have perused the case diary. Having considered all the relevant inputs, I find force in the opposition made by the learned Prosecutor. I am satisfied that in a serious crime like this the police must be given reasonable further time to complete the investigation and to come out with all relevant details relating to the crime. This is too early a stage to consider the release of the petitioners on bail, I agree with the learned Prosecutor.

9. These applications are dismissed. But I may hasten to observe that the petitioners shall be at liberty to move the court for bail again at a later stage of the investigation, not at any rate, prior to 7.9.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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